IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.812 OF 2006
IN
CRIMINAL APPEAL NO.554 OF 2006

Mirza Qumer Hyder ...Applicant

vs.

A.K.Thakker,I.O. N.C.B and Anr. ...Respondents

None for the Applicant
Mr.D.P.Adsule A.P.P. for State

CORAM: A.S.OKA,J.
DATE : NOVEMBER 10,2006.

P.C.:

1. None appeared for the Applicant in the morning and therefore the application was kept at the end of the admission list. On second occasion when the Application is called out none appears for the Applicant.

2. The Applicant is the original accused No.2 whose Appeal against conviction has been admitted. Paragraph 9 of this Application reads thus :

"9. Being aggrieved and not satisfied with the order and judgment dated 7-4-2006, the Applicant preferred appeal before the Hon'ble High Court vide Criminal Appeal No.554 of 2006 which is admitted on this Hon'ble Court on 19-6-2006 in which no prayer for bail was made."

3. Thus, a specific statement has been made in this Application that no prayer was made for grant of bail in the Memorandum of Appeal. Perusal of the Memorandum of Appeal shows that the prayer (d) was made specifically for grant of bail. The order dated 18th July 2006 passed in the Appeal specifically records that looking to the nature of the offence and considering the sentence awarded by the Trial Court, prayer for bail is rejected. The record of the Appeal shows that the Advocate who has filed the present Application appeared at the stage of admission of the Appeal and in his presence, the order rejecting the bail was passed. Notwithstanding this fact, a specific averment is made in this Application that no prayer for bail was made in this Appeal. Apart from this incorrect statement, it is not even disclosed in this Application that the prayer for bail made in the Appeal was specifically rejected by this court by order dated 18th July 2006. Prima facie, this is a serious case of suppression of material facts.

4. Application is rejected.

JUDGE